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10/653,708	09/02/2003	Peter Wassmann	MS#303971.01 (5069)	2692

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SENNIGER POWERS  
ONE METROPOLITAN SQUARE  
16TH FLOOR  
ST LOUIS, MO 63102

EXAMINER
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RAMPURIA, SATISH

ART UNIT	PAPER NUMBER
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2191

DATE MAILED: 11/20/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/653,708

Applicant(s)

WASSMANN ET AL.

Examiner

Satish S. Rampuria

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 02 September 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-47 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-47 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>See Continuation Sheet</u>                                    | 6) <input type="checkbox"/> Other: _____                          |

***DETAILED ACTION***

1. This action is in response to the application filed on September 2, 2003 and preliminary amendment to the claims filed on August 3, 2004.
2. Claims 1-47 are pending.

***Information Disclosure Statement***

3. An initialed and dated copy of Applicant's IDS form 1449 filed on 3/21/05, 5/18/04, 10/21/03 and 9/02/03 is attached to the instant Office action.

***Oath/Declaration***

4. The Office acknowledges receipt of a properly signed oath/declaration filed 12/29/03.

***Specification***

5. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

The following title is suggested: *Branding Framework for Software Product*.

6. The use of the trademark "Microsoft and .NET" has been noted in this application (i.e., pages 15, 17). It should be appropriate or proper term (see MPEP 608.01(v)) used, wherever it appears and be accompanied by the generic terminology. Although the use of trademarks is permissible in patent applications, the proprietary nature of the marks should be respected and every effort made to prevent their use in any manner which might adversely affect their validity as trademarks.

***Drawings***

7. The drawings were received on September 2, 2003. These drawings are acceptable by the examiner.

***Claim Rejections - 35 USC § 101***

8. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

9. Claims 19-30 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claim 19 is not limited to tangible embodiments. In view of Applicant's disclosure, specification page 34 [0109], the medium is not limited to tangible embodiments, instead being defined as including both tangible embodiments (e.g., computer readable medium) and intangible embodiments (e.g., transmission media, radio frequency (RF), infrared (IR), a carrier wave, telephone line, a signal, etc.). As such, the claim 19 is not limited to statutory subject matter and is therefore non-statutory. Claims 20-30 are directly or indirectly dependent on claim 19 and further support claim 19 and therefore non-statutory. For further explanation see MPEP § 2106.

To overcome this type of 101 rejection the claims need to be amended to include only the physical computer media and not a transmission media or other intangible or non-functional media. For the specification at the bottom, carrier

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medium and transmission media would be not statutory but storage media would be statutory.

***Claim Rejections - 35 USC § 102***

10. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

11. Claims 1-12, 14, 18-28, 30-41, 43 and 47 are rejected under 35

U.S.C. 102(e) as being anticipated by US Patent No. 6,694,320 to Ortiz et al:

(hereinafter, Ortiz).

**Per claim 1:**

Ortiz discloses:

- A computerized method of branding a software product comprising:

- assigning a namespace to each of a plurality of resource files, said resource files each containing one or more branding resources (col. 1, lines 45-48 "...storing branding information associated with the computer product in a central library...");
- grouping the resource files according to the assigned namespaces (col. 1, lines 45-48 "...storing branding information associated with the computer product in a central library...");
- executing an interface to call a group of resource files as a function of a selected namespace (col. 1, lines 55-60 "...linking to a first library storing routines to access branding data stored in a central library in response to the request; calling the routines in the first library..."); and searching the called group of resource files for one or more of the branding resources to be installed in the software product (col. 1, lines 45-52 "...the at least one routine being called by a software application requesting branding data and extracting the appropriate branding data from the central library in response to the call...").

**Per claim 2:**

The rejection of claim 1 is incorporated and further, Ortiz discloses:

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- further comprising centrally storing the plurality of branding resources (col. 1, lines 45-48 "...storing branding information associated with the computer product in a central library...").

**Per claim 3:**

The rejection of claim 1 is incorporated and further, Ortiz discloses:

- wherein assigning the namespaces comprises identifying which of the branding resources contained in the resource files correspond to specific brands (col. 1, lines 45-50 "...the called routines loading the central library and extracting branding data from the central library identified in the request; and conveying the extracted branding data to the software application...").

**Per claim 4:**

The rejection of claim 1 is incorporated and further, Ortiz discloses:

- wherein each of the resource files comprises a dynamic-link library (col. 3, lines 13-19 "...software makes use of dynamic link libraries (DLLs), which provide a simple and compact procedure for software applications to access required branding data...").

**Per claim 5:**

The rejection of claim 4 is incorporated and further, Ortiz discloses:

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- wherein the branding resources reside in one or more of the dynamic-link libraries associated therewith (col. 3, lines 19-29 "...cvOEMBrand.DLL holds the actual branding data. Thus, all branding data is stored in a single central location..."), and wherein executing the interface comprises accessing the branding resources in the associated dynamic-link libraries (col. 3, lines 19-29 "...cvBrandDLL holds a number of routines which are called in response to a request for branding data made by a software application to access branding data...").

**Per claim 6:**

The rejection of claim 1 is incorporated and further, Ortiz discloses:

- wherein at least one of the branding resources comprises an image associated with the software product (col. 1, lines 63-67 "...The branding data can be stored in a version resource in the central library and can include string resources for the product names and OEM names. The images can also be stored in the version resource in bitmap resources...").

**Per claim 7:**

The rejection of claim 1 is incorporated and further, Ortiz discloses:

- wherein at least one of the branding resources comprises a character string identifying the software product (col. 1, lines 63-67 "...central library and can



include string resources for the product names...").

**Per claim 8:**

The rejection of claim 1 is incorporated and further, Ortiz discloses:

- further comprising embedding, in each of the resource files, metadata identifying the branding resources contained therein, and wherein the called group of resource files is searched for the branding resources to be installed in the software product based on the embedded metadata (col. 1, lines 63-67 to col. 2, lines 1-3 "...The branding data can be stored in a version resource in the central library and can include string resources for the product names and OEM names. The images can also be stored in the version resource in bitmap resources...").

**Per claim 9:**

The rejection of claim 1 is incorporated and further, Ortiz discloses:

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- wherein each of the resource files has a branding manifest associated therewith (col. 3, lines 19-29 "...cvOEMBrand.DLL holds the actual branding data. Thus, all branding data is stored in a single central location..."), and further comprising identifying the branding resources contained in each of the resource files with the associated branding manifest (col. 3, lines 19-29 "...cvBrandDLL holds a number of routines which are called in response to a request for branding data made by a software application to access branding data...").

**Per claim 10:**

The rejection of claim 9 is incorporated and further, Ortiz discloses:

- wherein identifying the branding resources includes indicating, with the associated branding manifest, whether one or more of the branding resources contained in the resource file can be overwritten by a third party (col. 3, lines 19-29 "...cvOEMBrand.DLL holds the actual branding data. Thus, all branding data is stored in a single central location... cvBrandDLL holds a number of routines which are called in response to a request for branding data made by a software application to access branding data...").

**Per claim 11:**

The rejection of claim 9 is incorporated and further, Ortiz discloses:

- wherein identifying the branding resources includes indicating, with the associated branding manifest, a resource type for each of the branding resources

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contained in the resource file (col. 3, lines 19-29 "...cvOEMBrand.DLL holds the actual branding data. Thus, all branding data is stored in a single central location...").

**Per claim 12:**

The rejection of claim 9 is incorporated and further, Ortiz discloses:

- further comprising adding one or more branding resources to at least one of the resource files and updating the branding manifest associated therewith (col. 2, lines 15-20 "...the branding data is kept in a compact form, which can be easily accessed and updated. As a result, it is a simple and direct procedure to add new procedures and branding data and to alter existing procedures and branding data...").

**Per claim 14:**

The rejection of claim 1 is incorporated and further, Ortiz discloses:

- wherein the interface is an application programming interface (col. 1, lines 55-60 "...linking to a first library storing routines to access branding data stored in a central library in response to the request; calling the routines in the first library...").

**Per claim 18:**

The rejection of claim 1 is incorporated and further, Ortiz discloses:

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- wherein one or more computer-readable media have computer-executable instructions for performing the computerized method of claim 1 (col. 2, lines 4-14 "...provided a computer readable medium including computer program code for accessing branding data stored in a central resource...").

**Claims 19-28 and 30** are the computer product claim corresponding to method claims 1, 3-11 and 14 respectively, and rejected under the same rationale set forth in connection with the rejection of claims 1, 3-11 and 14 respectively, above.

**Per claim 31:**

Ortiz discloses:

- A computerized method of branding a software product comprising:
- assigning a namespace to each of a plurality of resource files, said resource files each containing one or more branding resources (col. 1, lines 45-48 "...storing branding information associated with the computer product in a central library...");
- embedding, in each of the resource files, metadata identifying the branding resources contained therein (col. 1, lines 45-48 "...storing branding information associated with the computer product in a central library...");
- executing an interface to call at least one of the resource files as a function of a selected namespace (col. 1, lines 55-60 "...linking to a first library storing

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routines to access branding data stored in a central library in response to the request; calling the routines in the first library..."); and

- searching the called resource file for one or more of the branding resources to be installed in the software product based on the embedded metadata (col. 1, lines 45-52 "...the at least one routine being called by a software application requesting branding data and extracting the appropriate branding data from the central library in response to the call...").

**Per claim 32:**

The rejection of claim 31 is incorporated and further, Ortiz discloses:

- further comprising grouping the resource files according to the assigned namespaces, and wherein the interface calls a group of resource files as a function of a selected namespace (col. 1, lines 45-48 "...storing branding information associated with the computer product in a central library...").

**Per claim 33:**

The rejection of claim 31 is incorporated and further, Ortiz discloses:

- further comprising centrally storing the plurality of branding resources (col. 1, lines 45-48 "...storing branding information associated with the computer product in a central library...").

**Per claim 34:**

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The rejection of claim 31 is incorporated and further, Ortiz discloses:

- wherein assigning the namespaces comprises identifying which of the branding resources contained in the resource files correspond to specific brands (col. 1, lines 45-50 "...the called routines loading the central library and extracting branding data from the central library identified in the request; and conveying the extracted branding data to the software application...").

**Per claim 35:**

The rejection of claim 31 is incorporated and further, Ortiz discloses:

- wherein each of the resource files comprises a dynamic-link library (col. 3, lines 13-19 "...software makes use of dynamic link libraries (DLLs), which provide a simple and compact procedure for software applications to access required branding data...").

**Per claim 36:**

The rejection of claim 35 is incorporated and further, Ortiz discloses:

- wherein the branding resources reside in one or more of the dynamic-link libraries associated therewith (col. 3, lines 19-29 "...cvOEMBrand.DLL holds the actual branding data. Thus, all branding data is stored in a single central location..."), and wherein executing the interface comprises accessing the branding resources in the associated dynamic-link libraries (col. 3, lines 19-29 "...cvBrandDLL holds a number of routines which are called in response to a

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request for branding data made by a software application to access branding data...”).

**Per claim 37:**

The rejection of claim 31 is incorporated and further, Ortiz discloses:

- wherein at least one of the branding resources comprises an image associated with the software product (col. 1, lines 63-67 “...The branding data can be stored in a version resource in the central library and can include string resources for the product names and OEM names. The images can also be stored in the version resource in bitmap resources...”).

**Per claim 38:**

The rejection of claim 31 is incorporated and further, Ortiz discloses:

- wherein at least one of the branding resources comprises a character string identifying the software product (col. 1, lines 63-67 “...central library and can include string resources for the product names...”).

**Per claim 39:**

The rejection of claim 31 is incorporated and further, Ortiz discloses:

- further comprising indicating, with the embedded metadata, whether one or more of the branding resources contained in the resource files can be overwritten by a

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third party (col. 3, lines 19-29 "...cvOEMBrand.DLL holds the actual branding data. Thus, all branding data is stored in a single central location... cvBrandDLL holds a number of routines which are called in response to a request for branding data made by a software application to access branding data...").

**Per claim 40:**

The rejection of claim 39 is incorporated and further, Ortiz discloses:

- further comprising indicating, with the embedded metadata, a resource type for each of the branding resources contained in the resource files (col. 1, lines 45-50 "...the called routines loading the central library and extracting branding data from the central library identified in the request; and conveying the extracted branding data to the software application...").

**Per claim 41:**

The rejection of claim 39 is incorporated and further, Ortiz discloses:

- further comprising adding one or more branding resources to at least one of the resource files and updating the metadata embedded therein (col. 2, lines 15-20 "...the branding data is kept in a compact form, which can be easily accessed and updated. As a result, it is a simple and direct procedure to add new procedures and branding data and to alter existing procedures and branding data...").



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**Per claim 43:**

The rejection of claim 31 is incorporated and further, Ortiz discloses:

- wherein the interface is an application programming interface (col. 1, lines 55-60  
“...linking to a first library storing routines to access branding data stored in a  
central library in response to the request; calling the routines in the first  
library...”).

**Per claim 47:**

The rejection of claim 31 is incorporated and further, Ortiz discloses:

- wherein one or more computer-readable media have computer-executable  
instructions for performing the computerized method of claim 31 (col. 2, lines 4-  
14 “...provided a computer readable medium including computer program code  
for accessing branding data stored in a central resource...”).

***Claim Rejections - 35 USC § 103***

12. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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13. Claims 13, 15, 16, 17, 29, 42, 44, 45, and 46 rejected under 35

U.S.C. 103(a) as being unpatentable over Ortiz in view of US Publication No.

2003/0195921 to Becker et al. (hereinafter, Becker).

**Per claims 13:**

The rejection of claim 9 is incorporated and further, Ortiz does not explicitly disclose wherein the branding manifest comprises an extensible markup language file.

However, Becker discloses in an analogous computer system wherein the branding manifest comprises an extensible markup language file (paragraph [0060] "An XML element of the type Resource is a resource of the application (e.g., a binary file, a configuration file, a directory, a Web page)").

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to incorporate the method of wherein the branding manifest comprises an extensible markup language file as taught by Becker into the method of branding software as taught by Ortiz. The modification would be obvious because of one of ordinary skill in the art would be motivated use the resource files as a XML files to provide user a flexibility to change or update to resource files on the fly as suggested by Becker (paragraph [0012]).

**Per claims 15:**

The rejection of claim 1 is incorporated and further, Ortiz does not explicitly disclose wherein the software product comprises a plurality of binary files organized into components, each of said components having a component manifest associated

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therewith for identifying the component and specifying one or more dependencies of the component, and further comprising specifying a dependency from at least one selected component to the interface for accessing the branding resources to be installed in connection with the selected component.

However, Becker discloses in an analogous computer system wherein the software product comprises a plurality of binary files organized into components, each of said components having a component manifest associated therewith for identifying the component (paragraph [0060] "An XML element of the type Resource is a resource of the application (e.g., a binary file, a configuration file, a directory, a Web page)") and specifying one or more dependencies of the component, and further comprising specifying a dependency from at least one selected component to the interface for accessing the branding resources to be installed in connection with the selected component (paragraph [0066] "...The element CheckDependency checks for the existence of an installation of another component on the target server... element can include XML attributes... Component Version (a version of the XML element component to check for dependency), InstallPath (an installation path of the corresponding component), and BooleanDependency (a relationship to a version of the installed component, e.g., equal, greater\_than, greater\_than\_equal)").

The feature of wherein the software product comprises a plurality of binary files organized into components, each of said components having a component manifest associated therewith for identifying the component and specifying one or more dependencies of the component, and further comprising specifying a dependency from

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at least one selected component to the interface for accessing the branding resources to be installed in connection with the selected component would be obvious for the reasons set forth in the rejection of claim 13.

**Per claims 16:**

The rejection of claim 15 is incorporated and further, Ortiz does not explicitly disclose wherein specifying the dependency from the selected component to the interface includes specifying the selected namespace, said selected namespace corresponding to a specific brand.

However, Becker discloses in an analogous computer system wherein specifying the dependency from the selected component to the interface includes specifying the selected namespace, said selected namespace corresponding to a specific brand (paragraph [0066] "...The element CheckDependency checks for the existence of an installation of another component on the target server... element can include XML attributes... Component Version (a version of the XML element component to check for dependency), InstallPath (an installation path of the corresponding component), and BooleanDependency (a relationship to a version of the installed component, e.g., equal, greater\_than, greater\_than\_equal)").

The feature of wherein specifying the dependency from the selected component to the interface includes specifying the selected namespace, said selected namespace corresponding to a specific brand would be obvious for the reasons set forth in the rejection of claim 13.

**Per claims 17:**

The rejection of claim 16 is incorporated and further, Ortiz does not explicitly disclose, wherein specifying the selected namespace includes specifying another namespace corresponding to a different specific brand to modify the branding of the software product.

However, Becker discloses in an analogous computer system wherein specifying the selected namespace includes specifying another namespace corresponding to a different specific brand to modify the branding of the software product (paragraph [0066] "...The element CheckDependency checks for the existence of an installation of another component on the target server... element can include XML attributes...Component Version (a version of the XML element component to check for dependency), InstallPath (an installation path of the corresponding component), and BooleanDependency (a relationship to a version of the installed component, e.g., equal, greater\_than, greater\_than\_equal)").

The feature of wherein specifying the selected namespace includes specifying another namespace corresponding to a different specific brand to modify the branding of the software product would be obvious for the reasons set forth in the rejection of claim 13.

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**Claim 29** is the computer product claim corresponding to method claims 13 and rejected under the same rational set forth in connection with the rejection of claim 13, above.

**Per claims 42:**

The computerized method of claim 39, wherein an extensible markup language file contains the embedded metadata. The limitations in the claims are similar to those in claim 13, and rejected under the same rational set forth in connection with the rejection of claim 13.

**Per claims 45:**

The computerized method of claim 44, wherein specifying the dependency from the selected component to the interface includes specifying the selected namespace, said selected namespace corresponding to a specific brand. The limitations in the claims are similar to those in claim 16, and rejected under the same rational set forth in connection with the rejection of claim 16.

**Per claims 46:**

The computerized method of claim 45, wherein specifying the selected namespace includes specifying another namespace corresponding to a different specific brand to modify the branding of the software product. The limitations in the claims are similar

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to those in claim 17, and rejected under the same rational set forth in connection with the rejection of claim 17.

### ***Conclusion***

14. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Satish S. Rampuria** whose telephone number is **(571) 272-3732**. The examiner can normally be reached on **8:30 am to 5:00 pm** Monday to Friday except every other Friday and federal holidays. Any inquiry of a general nature or relating to the status of this application should be directed to the **TC 2100 Group receptionist: 571-272-2100**.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Wei Y. Zhen** can be reached on **(571) 272-3708**. The fax phone number for the organization where this application or proceeding is assigned is **571-273-8300**.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Satish S. Rampuria  
Patent Examiner/Software Engineer  
Art Unit 2191



**WEI ZHEN**  
**SUPERVISORY PATENT EXAMINER**



Continuation of Attachment(s) 3). Information Disclosure Statement(s) (PTO/SB/08), Paper No(s)/Mail Date  
:3/21/05,5/18/04,10/21/03,9/02/03.